

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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4 THE BANK OF NEW YORK MELLON F/K/A  
5 THE BANK OF NEW YORK AS SUCCESSOR  
6 TO JPMORGAN CHASE BANK, *et al.*,

7 Plaintiffs,

8 vs.

9 PREMIER ONE HOLDINGS INC., *et al.*,

10 Defendants.

2:17-cv-00737-JCM-VCF

**ORDER GRANTING ENLARGMENT OF  
TIME TO SERVE AND SERVICE BY  
PUBLICATION (ECF NO. 11 & 19)**

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12 Before the court are Plaintiff's Motion for Extension to Serve Defendants Ying M. Shin ("Shin")  
13 and Bin Zhang ("Zhang") (ECF No. 11) and Plaintiff's Motion for Service by Publication on Defendant  
14 Ying M. Shin (ECF No. 19).

15 Plaintiff seeks to extend the time in which to effectuate service under Federal Rule of Civil  
16 Procedure 4(m) on Shin and Zhang. (ECF No. 11). Plaintiff asks this court to permit service of the  
17 Summons and Complaint on Shin by publication. (ECF No. 19) No opposition has been filed to both  
18 motions. On July 7, 2017, Plaintiff filed a returned executed Summons on Zhang. (ECF No. 24).

19 **Service By Publication**

20 Pursuant to Fed. R. Civ. P. 4(e)(1), "an individual – other than a minor, an incompetent person, or  
21 a person whose waiver had been filed – may be served in a judicial district of the United States by  
22 following state law for serving a summons in an action brought in courts of general jurisdiction in the state  
23 where the district court is located or where service is made." Under Rule 4(e)(1) of the Nevada Rules of  
24 Civil Procedure, "when the person on whom service is to be made resides out of the state, or has departed  
25 from the state, or cannot, after due diligence, be found within the state, or by concealment seeks to avoid

1 the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or judge  
2 thereof, and it shall appear, either by affidavit or by a verified complaint on file, that a cause of action  
3 exists against the defendant in respect to whom the service is to be made, and that the defendant is a  
4 necessary or proper party to the action, such court or judge may grant an order that the service be made  
5 by the publication of summons.”

6 Plaintiff asserts that the after diligent effort, it is unable to serve Shin within the state of Nevada.  
7 (ECF No. 19). In support of this assertion, Plaintiff provided the court with several affidavits of attempted  
8 services (ECF Nos. 11-1, 19-1, 19-2, 19-3). The last known addresses for Shin are 5055 W. Hacienda  
9 Ave., #1029, Las Vegas, Nevada 89118, 8313 Agnew Valley Ct., Las Vegas, Nevada 89178, 5237 Sacha  
10 Way, Las Vegas, Nevada 89118. *Id.* Service at these addresses were unsuccessful. *Id.*

11 The court finds that pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1), permitting  
12 service by publication of the Summons and Complaint on Shin is warranted. Pursuant to Rule 4(e)(1)(iii),  
13 the publication must be made in a newspaper, published in the State of Nevada, for a period of 4 weeks,  
14 and at least once a week during said time. Nev. R. Civ. P. 4(e)(1)(iii).

#### 15 **Extension For Service**

16 Fed. R. Civ. P. 4(m) requires a defendant to be served within 90 days after the complaint is filed.  
17 If “the plaintiff shows good cause for the failure [to serve a defendant within that time-frame], the court  
18 must extend the time for service for an appropriate period.” Fed. R. Civ. P. 4(m).

19 Plaintiff asserts that additional time is required to effect service, and asks this court to extend the  
20 4(m) deadline. (ECF No. 11). The Complaint was filed on March 14, 2017 which made the last day that  
21 Plaintiff must effectuate service on Shin was by June 12, 2017. Fed. R. Civ. P. 4(m).

22 Given that Plaintiff has demonstrated “good cause” for its failure to effectuate service and has  
23 provided support for its request for an extension, the court will extend the 4(m) deadline until September  
24 12, 2017. *See* Fed. R. Civ. P. 4(m).

25 Accordingly, and for good cause shown,

1 IT IS HEREBY ORDERED that Plaintiff's Motion for Extension to Serve Defendants Ying M.  
2 Shin and Bin Zhang (ECF No. 11) is GRANTED as to Shin and DENIED as moot as to Zhang.

3 IT IS FURTHER ORDERED that Plaintiff is permitted to serve Shin by publication. A copy of  
4 the Summons and Complaint must be mailed to Shin at his last known address(es) by certified U.S. Mail,  
5 return receipt requested.

6 IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1)(i)  
7 and (iii), the Summons in this action must be served by publication in a newspaper, published in the state  
8 of Nevada, for a period of four weeks and at least once a week during that time.

9 IT IS FURTHER ORDERED that the deadline to effect service of process is extended up to and  
10 including September 12, 2017.

11 DATED this 12th day of July, 2017.

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14 CAM FERENBACH  
15 UNITED STATES MAGISTRATE JUDGE  
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